

Assembly Joint Resolution

No. 30

**Introduced by Assembly Member Salas
(Coauthor: Assembly Member V. Manuel Perez)**

February 2, 2010

Assembly Joint Resolution No. 30—Relative to geothermal power projects and tax incentives.

LEGISLATIVE COUNSEL'S DIGEST

AJR 30, as introduced, Salas. Geothermal power projects: section 1603 grant.

This measure would memorialize the President and the Congress of the United States to request that the United States Treasury Department clarify that, for purposes of eligibility for a grant under Section 1603 of the American Recovery and Reinvestment Tax Act of 2009 in lieu of tax credits, “exploring” with respect to geothermal power projects does not constitute physical work for determining when construction commences.

Fiscal committee: no.

1 WHEREAS, To be eligible for a grant under section 1603 of
2 the American Recovery and Reinvestment Tax Act of 2009 (Pub.
3 L. 111-5) (act) in lieu of tax credits, a project that is to be placed
4 in service after December 31, 2010, must commence construction
5 after January 1, 2009. Program guidance issued by the United
6 States Treasury Department specifies that construction is
7 considered to have commenced “when physical work of a
8 significant nature begins” and notes that “physical work does not

1 include preliminary activities as planning or design, securing
2 financing, exploring, or researching; and

3 WHEREAS, Wells drilled as part of exploratory resource
4 verification for geothermal power projects should qualify as
5 “exploring” or “researching” activities and not trigger the
6 “commencement of construction” threshold. These test wells are
7 not considered a part of any construction of a facility, and many
8 of these wells are ultimately abandoned through proper closure
9 procedures. If, these wells are subsequently used as future
10 operational wells in instances where the resource is in fact verified
11 due to exploratory drilling as being worthy of full-scale
12 development, significant new construction permitting and
13 construction on the wells would be required; and

14 WHEREAS, Imperial County is the second largest producer of
15 geothermal energy in the nation. Several new proposed geothermal
16 powerplants are under development in Imperial County. The
17 proponents of some of these projects have applied for federal tax
18 incentives that were enacted as part of the act; and

19 WHEREAS, Imperial County has the highest unemployment
20 rate in the state, with an unemployment rate of 31.9 percent in
21 October 2009, 29.2 percent in November 2009, and a high of 33.1
22 percent in August 2009, as reported by the Employment
23 Development Department. The development of new geothermal
24 powerplants in Imperial County will create new jobs for residents
25 of Imperial County and will provide the kind of economic stimulus
26 that the act was designed to encourage; and

27 WHEREAS, The United States Treasury Department should
28 issue clarifying language to define eligible, drilling-related
29 preconstruction costs with respect to geothermal power projects
30 as follows:

31 “Exploring is a preliminary activity and does not constitute
32 physical work in determining when construction commences. In
33 a geothermal project, exploring includes any drilling performed
34 prior to the date that a geothermal consultant or engineer would
35 determine that a geothermal resource exists in the quantity and
36 quality necessary to justify a commercially viable geothermal
37 power generation plant at the site of the taxpayer’s facility. Drilling
38 prior to that date does not constitute physical work of a significant
39 nature”; now, therefore, be it

1 *Resolved by the Assembly and the Senate of the State of*
2 *California, jointly,* That the Legislature respectfully memorializes
3 the President and the Congress of the United States to request that
4 the United States Treasury Department clarify that, for purposes
5 of eligibility for a grant under section 1603 of the American
6 Recovery and Reinvestment Act of 2009 in lieu of tax credits,
7 “exploring” with respect to geothermal power projects does not
8 constitute physical work for determining when construction
9 commences; and be it further
10 *Resolved,* That the Chief Clerk of the Assembly transmit copies
11 of this resolution to the President and Vice President of the United
12 States, the Speaker of the House of Representatives, the Majority
13 Leader of the Senate, and to each Senator and Representative from
14 California in the Congress of the United States.

O